



HOUSE BILL No. 5235

January 25, 2000, Introduced by Reps. Rocca, Van Woerkom, Faunce, Ruth Johnson, Howell, Richardville, Patterson, Hager, Gilbert, Bisbee and Caul and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4g (MCL 205.54g), as amended by 1999 PA 116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4g. (1) A person subject to tax under this act may
2 exclude from the amount of the gross proceeds used for the compu-
3 tation of the tax 1 or more of the following:

4 (a) Sales of prescription drugs for human use or ~~food~~
5 NONPRESCRIPTION MEDICINES OR DRUGS FOR HUMAN USE.

6 (B) FOOD for human consumption, except prepared food
7 intended for immediate consumption.

8 (C) ~~(b)~~ The deposit on a returnable container for a bever-
9 age or the deposit on a carton or case that is used for
10 returnable containers.

1 (D) ~~-(c)-~~ Food or tangible personal property purchased with
2 federal food stamps.

3 (E) ~~-(d)-~~ Fruit or vegetable seeds and fruit or vegetable
4 plants if purchased at a place of business authorized to accept
5 food stamps by the food and nutrition service of the United
6 States department of agriculture or a place of business that has
7 made a complete and proper application for authorization to
8 accept food stamps but has been denied authorization and provides
9 proof of denial to the department of treasury.

10 (2) "Prescription drugs for human use" means insulin or a
11 drug dispensed by a licensed pharmacist pursuant to a written
12 prescription prescribed by a licensed physician or other health
13 professional as defined by section 21005 of the public health
14 code, 1978 PA 368, MCL 333.21005, for the use of a designated
15 ~~person~~ INDIVIDUAL, or oxygen dispensed pursuant to a written
16 prescription or order issued by a licensed physician or other
17 health professional as defined in section 21005 of the public
18 health code, 1978 PA 368, MCL 333.21005.

19 (3) "Food for human consumption" means all food and drink
20 items, including bottled water, intended primarily for human con-
21 sumption except beverages with an alcohol content of 1/2 of 1% or
22 more by volume, tobacco and tobacco products, and prepared food
23 intended for immediate consumption. Food for human consumption
24 includes live animals purchased with the intent to be slaughtered
25 for human consumption.

26 (4) "Prepared food intended for immediate consumption" means
27 a retail sale of 1 or more of the following:

1 (a) Food or drink prepared and served for immediate
2 consumption at or near the premises or ordinarily sold on a take-
3 out basis for immediate consumption either on or off the
4 premises. For the purposes of this section premises includes the
5 total space and facilities in or on which a retailer conducts his
6 or her business, including, but not limited to, parking areas for
7 the convenience of in-car consumption, outdoor tables, benches,
8 chairs, and similar conveniences.

9 (b) Food or drink furnished, prepared, or served for immedi-
10 ate consumption at a table, chair, or counter or from a tray,
11 glass, dish, container, or other tableware.

12 (c) Food or drink arranged on a plate or platter, whether
13 intended for individual or multiple servings and whether sold by
14 the pound or by the serving; a sandwich, either hot or cold; or a
15 combination of taxable and nontaxable items when sold as a plate
16 or packaged as a meal, even though intended for more than 1
17 serving.

18 (d) Food that is cooked to the order of the purchaser, or
19 that is cooked and maintained at a temperature higher than the
20 surrounding air temperature before sale, or prepared food that is
21 sold by the piece rather than by weight or measure.

22 (e) After December 31, 1994, carbonated beverages sold from
23 a mobile facility or vending machine, or food or drink heated or
24 cooled mechanically, electrically, or by other artificial means
25 to an average temperature above 75 degrees fahrenheit or below 65
26 degrees fahrenheit before sale and sold from a mobile facility or
27 vending machine, except milk, noncarbonated beverages containing

1 10% or more juice content, and fresh fruit. A refund shall not
2 be made for any taxes paid after December 31, 1994 and before
3 January 16, 1997 for food or drink otherwise exempt under this
4 subdivision. The tax due under this act on the sale of food or
5 drink from a vending machine selling both taxable items and items
6 exempt under this subsection shall be calculated under this act
7 after December 31, 1994 based on 1 of the following as determined
8 by the taxpayer:

9 (i) Actual gross proceeds from sales at retail.

10 (ii) The sum of proceeds from carbonated beverages and 45%
11 of proceeds from the sale of items subject to tax under this act
12 or exempt from the tax levied under this act, other than from the
13 sale of carbonated beverages.

14 (5) Prepared food intended for immediate consumption does
15 not include bakery products for off-premises consumption, such as
16 doughnuts, pastry, bread, and cakes or meals eligible to be pur-
17 chased with federal food stamps.

18 (6) "NONPRESCRIPTION MEDICINES OR DRUGS FOR HUMAN USE" MEANS
19 A MEDICINE OR DRUG, WHETHER APPLIED TOPICALLY OR INGESTED, THAT
20 IS PREPACKAGED, FULLY PREPARED BY THE MANUFACTURER OR PRODUCER
21 FOR USE BY AN INDIVIDUAL TO ALLEVIATE DISCOMFORT OR PAIN, AND
22 SOLD OVER THE COUNTER WITHOUT THE REQUIREMENT OF A WRITTEN PRE-
23 SCRIPTION PRESCRIBED BY A LICENSED PHYSICIAN OR OTHER HEALTH PRO-
24 FESSIONAL AS DEFINED BY SECTION 21005 OF THE PUBLIC HEALTH CODE,
25 1978 PA 368, MCL 333.21005.